IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5059 of 2006 (O&M)
Date of decision : 9.11.2006

Mahipal

....Appellant

Versus

Tara Chand & others

...Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.J.S.Hooda, Advocate
for the appellant.

...

MAHESH GROVER, J.(Oral)

Delay condoned.

The present appeal has been preferred by the owner of the offending vehicle against the award of the Motor Accident Claims Tribunal,Faridabad dated 3.8.2006 passed in M.V.A. Petition No.70 of 21.9.2004.

The appellant had disputed the liability to pay the compensation as determined by the Tribunal on the ground that the jeep in question was being driven by a person who was not authorised by the appellant and was not his employee and therefore the Tribunal has recorded an erroneous finding by making the appellant vicariously liable to pay the compensation.

We have heard the learned counsel for the appellant and

have perused the award which reveals that the accident was caused when the vehicle was being driven rashly and negligently which fact is apparent as the jeep had hit the shop killing a person sitting therein. The driver is facing criminal prosecution. No evidence has been adduced by the appellant to substantiate the plea which has been raised in the appeal and to show that the driver was driving the said vehicle unauthorisedly. So much so that the appellant did not even step into the witness-box to testify even though he had appeared before the Tribunal and filed his written statement. In the absence of any evidence the plea of the appellant cannot be accepted.

We do not find any infirmity in the findings recorded by the Tribunal and the appeal being devoid of any merit is dismissed as such.

(UMA NATH SINGH)
JUDGE

(MAHESH GROVER)
JUDGE

November 9, 2006

dss